

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

OCT 21 2005

FILED
CLERK'S OFFICE

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE VIOXX PRODUCTS LIABILITY LITIGATION

**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.
LOWELL JENSEN, J. FREDERICK MOTZ,* ROBERT L. MILLER, JR.,
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL**

TRANSFER ORDER

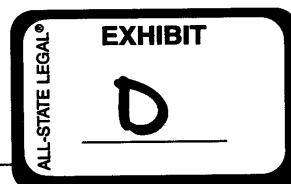
Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by the health care defendant in the Southern Texas action and plaintiffs in the remaining 47 actions listed on Schedule A to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held, the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending motions to remand to state court can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims of liability for allegedly adverse effects arising from the ingestion of Vioxx. *See In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

To the North Carolina plaintiff who argues that he does not have the resources to litigate his claims in the Eastern District of Louisiana and to the health care defendant in the Southern Texas action who argues that it is not proper to split the Texas action into multiple pretrial proceedings, we emphasize that since Section 1407 transfer is for pretrial proceedings, there is usually no need for the parties and witnesses to travel to the transferee districts for depositions or otherwise. *See, e.g., Fed.R.Civ.P. 45(c)(3)(A)*. Furthermore, the judicious use of liaison counsel, lead counsel and steering

* Judge Motz took no part in the decision of this matter.

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Process _____
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CtRmDep _____
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committees will eliminate the need for most counsel ever to travel to the transferee districts. And it is logical to assume that prudent counsel will combine their forces and apportion their workload in order to streamline the efforts of the parties and witnesses, their counsel and the judiciary. This streamlined combined with uniform case management approaches instituted or anticipated in these multidistrict proceedings will foreseeably lead to an overall savings in transaction costs. *See In re Asbestos Products Liability Litigation (No. VI)*, 771 F.Supp. 415, 422 (J.P.M.L. 1991).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

IT FURTHER ORDERED that the claims against Pfizer Inc. (Pfizer) and the physician defendant in *Santos Villarreal Layton v. Dario Arango, M.D., et al.*, S.D. Texas, C.A. No. 7:05-149, relating to Pfizer's Celebrex prescription medication are separated and remanded, pursuant to 28 U.S.C. § 1407(a), to the Southern District of Texas.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

SCHEDULE A

MDL-1657 -- In re Vioxx Products Liability Litigation

Southern District of California

EDLA
SEC. L/3

<i>Alvin Williams v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-943	05-5272
<i>Margaret Stein v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-944	05-5273
<i>Otis Anderson v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-945	05-5274
<i>Joan Ongley v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-947	05-5275
<i>Hilda Armenta v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-948	05-5276
<i>Robert Levesque v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-949	05-5277
<i>Clancy Lucille Holloway v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-950	05-5278
<i>Laura Martinez v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-951	05-5279
<i>Clarice Forbes v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-953	05-5280
<i>Robert Castro v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-954	05-5281
<i>Joseph Capozzi v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-957	05-5282
<i>Anna Lemmons v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-958	05-5283
<i>Richard Brown v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-959	05-5284
<i>Aida Hernandez v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-960	05-5285
<i>Harvey Persh v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-961	05-5286
<i>Robert Scott v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-962	05-5287
<i>Violet Abramson v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-963	05-5288
<i>Carmen Esquer v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-964	05-5289

Southern District of Illinois

<i>Rosie-May Spann v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-315	05-5290
<i>James Steele, Jr., et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-339	05-5291
<i>Greg Miller, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-361	05-5292
<i>Wilma Gaston, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-362	05-5293
<i>John Allen, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-377	05-5294

Western District of Kentucky

<i>William Andrew Curl, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-324	05-5295
<i>Brenda Cox, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-332	05-5296
<i>Patrick Wayne Overall, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-333	05-5297
<i>James Goodman v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-334	05-5298
<i>Steven Clark v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-335	05-5299

Eastern District of Missouri

<i>Dorothy Ganser, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-557	05-5300
<i>Letty Bess, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-568	05-5301
<i>Arthur Mullins, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-569	05-5302
<i>Dorothy Kassing, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-631	05-5303
<i>Shirley Zook, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-632	05-5304
<i>Andrew Kisty, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-665	05-5305

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Eastern District of Missouri (Continued)

EDLA
SEC. L/3

<i>Virginia Kell, et al. v. Merck & Co., Inc., et al.,</i> C.A. No. 4:05-666	05-5306
<i>Mary Benson, et al. v. Merck & Co., Inc., et al.,</i> C.A. No. 4:05-668	05-5307
<i>Earlie Douglas, et al. v. Merck & Co., Inc., et al.,</i> C.A. No. 4:05-669	05-5308
<i>Ricardo Lara, et al. v. Merck & Co., Inc., et al.,</i> C.A. No. 4:05-671	05-5309
<i>Loretta Trinidad, et al. v. Merck & Co., Inc., et al.,</i> C.A. No. 4:05-673	05-5310
<i>David Moultrie, et al. v. Merck & Co., Inc., et al.,</i> C.A. No. 4:05-674	05-5311
<i>Irene Rogers, et al. v. Merck & Co., Inc., et al.,</i> C.A. No. 4:05-675	05-5312
<i>Charlotte Bohlke, et al. v. Merck & Co., Inc., et al.,</i> C.A. No. 4:05-837	05-5313

Middle District of North Carolina

<i>Jimmy Reid v. Merck & Co., Inc.,</i> C.A. No. 1:05-348	05-5314
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Eastern District of Texas

<i>Elfriede Blacketer v. Merck & Co., Inc., et al.,</i> C.A. No. 1:05-336	05-5315
<i>Walter Maddox v. Merck & Co., Inc., et al.,</i> C.A. No. 1:05-338	05-5316

Southern District of Texas

<i>Santos Villarreal Layton v. Dario Arango, M.D., et al.,</i> C.A. No. 7:05-149	05-5317
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Western District of Washington

<i>Robert K. Waitt v. Merck & Co., Inc., et al.,</i> C.A. No. 2:05-759	05-5318
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Northern District of West Virginia

<i>Shelia Dalgo v. Merck & Co., Inc.,</i> C.A. No. 5:05-48	05-5319
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**INVOLVED COUNSEL LIST
DOCKET NO. 1657
IN RE VIOXX PRODUCTS LIABILITY LITIGATION**

Kevin J. Adrian
Brown & James
1010 Market Street, 20th Floor
St Louis, MO 63101

T. Scott Allen
Cruse Scott Henderson & Allen, LLP
2777 Allen Parkway, 7th Floor
Houston, TX 77019-2133

Charles Avrith
Hughes, Hubbard & Reed, LLP
350 South Grand Avenue, 36th Floor
Los Angeles, CA 90071

Crystal Bowie Baker
Nelson Mullins Riley & Scarborough
The Knollwood, Suite 530
380 Knollwood Street
Winston-Salem, NC 27103

Dan H. Ball
Bryan Cave, L.L.P.
One Metropolitan Square
211 N. Broadway, Suite 3600
St. Louis, MO 63102-2750

Christopher J. Blake
Nelson, Mullins, Riley
& Scarborough, LLP
P.O. Box 30519
Raleigh, NC 27622-0519

J. Trenton Bond
Reaud, Morgan & Quinn, LLP
801 Laurel Street
P.O. Box 26005
Beaumont, TX 77720-6005

Donald K. Brown, Jr.
O'Bryan, Brown & Toner
1500 Starks Building
455 South Fourth Street
Louisville, KY 40202-2513

Michael K. Brown
Reed Smith, LLP
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071-1514

James M. Burd
Whonsetler & Johnson, PLLC
6011 Brownsboro Park Blvd., Suite E
Louisville, KY 40207

Evan D. Buxner
Walther Glenn Law Associates
1034 South Brentwood Blvd.
Suite 1300
St. Louis, MO 63117

Joseph S. Cohen
Beirne, Maynard & Parsons
1300 Post Oak Blvd., Suite 2500
Houston, TX 77056-3000

John P. Cunningham
Brown & James
Richland Plaza 1
525 Main Street
Belleville, IL 62220

Charles A. Deacon
Fulbright & Jaworski, L.L.P.
300 Convent Suite 2200
San Antonio, TX 78205

David A. Dick
Thomspson Coburn, LLP
One US Bank Plaza, Suite 2600
St Louis, MO 63101

Kenneth J. Ferguson
Clark, Thomas & Winters
P.O. Box 1148
Austin, TX 78767-1148

Francis J. Flynn
Jeffrey J. Lowe, P.C.
8235 Forsyth Boulevard, Suite 1100
St. Louis, MO 63105

Alberto Tover Garcia, III
Law Office of Alberto T. Garcia, III
10125 North 10th Street, Suite E
McAllen, TX 78504

Andrew C. Gauen
Merrick, Hofstedt & Lindsey
710 9th Avenue
Seattle, WA 98104

Lawrence B. Grebel
Brown & James, P.C.
1010 Market Street
20th Floor
St. Louis, MO 63101

Dan H. Hall
Bryan Cave, L.L.P.
One Metropolitan Square
211 N. Broadway, Suite 3600
St. Louis, MO 63102-2750

Russ M. Herman
Herman, Herman, Katz & Cotlar,
L.L.P.
820 O'Keefe Avenue
New Orleans, LA 70113

Douglas A. Hofmann
Williams, Kastner & Gibbs
P.O. Box 21926
601 Union Street, Suite 4100
Seattle, WA 98101

Jeffrey A. Holmstrand
McDermott & Bonenberger, PLLC
53 Washington Avenue
Wheeling, WV 26003-0316

William Zachary Hughes
Baker Botts LLP
910 Louisiana
Suite 3000 One Shell Plaza
Houston, TX 77002-4995

Richard L. Josephson
Baker Botts LLP
One Shell Plaza
910 Louisiana Street, Suite 3000
Houston, TX 77002-9934

Norman C. Kleinberg
Hughes Hubbard & Reed, LLP
One Battery Park Plaza, 12th Floor
New York, NY 10004-1482

McCall B. Kuhne
Dougherty, Hildre & Haklar
2550 Fifth Avenue, Suite 600
San Diego, CA 92103-6624

Jeffrey J. Lowe
Jeffrey J. Lowe, PC
8235 Forsyth Boulevard, Suite 1100
St. Louis, MO 63105

Gerry Lowry
Fulbright & Jaworski, L.L.P.
1301 McKinney Street, Suite 5100
Houston, TX 77010-3095

INVOLVED COUNSEL LIST- MDL-1657

PAGE 2 of 2

Richard L. Martens
Martens Ragen
705 Fifth Avenue South, Suite 150
Seattle, WA 98104-4425

Timothy F. McCurdy
Husch & Eppenger, LLC
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105

Winston E. Miller
Frost, Brown & Todd, L.L.C.
400 West Market Street, 32nd Floor
Louisville, KY 40202

Ann B. Oldfather
Oldfather & Morris
1330 South Third Street
Louisville, KY 40208

Rene O. Oliveira
Roerig, Oliveira & Fisher
855 West Price Road, Suite 9
Brownsville, TX 78520

Gary P. Paul
Brinker & Doyen
120 S. Central Ave., Suite 700
Clayton, MO 63105

Susan J. Pope
Frost, Brown & Todd, L.L.C.
250 W. Main Street
2700 Lexington Financial Center
Lexington, KY 40507-1749

D. Brian Rattliff
Bubalo & Hiestand, PLC
401 S. Fourth Street, Suite 800
Louisville, KY 40202

Jimmy Reid
1421 Miltonwood Road
Brown Summit, NC 27214

D. Aaron Rihn
Peirce, Raimond & Coulter, P.C.
2500 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1918

Jaime A. Saenz
Rodriguez, Colvin & Chaney
1201 E. Van Buren
Brownsville, TX 78520

T. Evan Schaeffer
Schaeffer & Lamere, PC
5512 Godfrey Road, Suite B
Godfrey, IL 62035

Randy J. Soriano
Bryan Cave, L.L.P.
One Metropolitan Square
211 N. Broadway, Suite 3600
St. Louis, MO 63102-2750

Stephen G. Strauss
Bryan Cave, L.L.P.
One Metropolitan Square
211 N. Broadway, Suite 3600
St. Louis, MO 63102-2750

Bryant M. Struble
Thompson & Coburn, LLP
One US Bank Plaza, Suite 2600
St. Louis, MO 63101

David Tao, M.D.
8006 Old Shepherdsville Rd.
Louisville, KY 40202

Tyler S. Thompson
Dolt, Thompson, Shepherd & Kinney
455 S. 4th Street
310 Starks Building
Louisville, KY 40202

Gerald Richard Toner
O'Bryan, Brown & Toner
455 S. Fourth Avenue
1500 Starks Building
Louisville, KY 40202

Carrie Von Hoff
O'Hagan, Smith & Amundsen, LLC
150 North Michigan Avenue, Suite 3300
Chicago, IL 60601

James E. Whaley
Brown & James
1010 Market Street
20th Floor
St Louis, MO 63101

Phillip A. Wittmann
Stone, Pigman, Walther & Wittmann, LLC
546 Carondelet Street
New Orleans, LA 70130-3588

**INVOLVED JUDES LIST
DOCKET NO. 1657
IN RE VIOXX PRODUCTS LIABILITY LITIGATION**

Hon. Henry E. Autrey
U.S. District Judge
10N Thomas F. Eagleton U.S. Courthouse
111 South Tenth Street
St. Louis, MO 63102

Hon. Jennifer B. Coffman
U.S. District Judge
U.S. District Court
P.O. Box 2228
Lexington, KY 40588

Hon. Randy Crane
U.S. District Judge
U.S. District Court
1701 W. Business Highway 83
Suite 928
McAllen, TX 78501

Hon. Marcia A. Crone
U.S. District Judge
U.S. District Court
P.O. Box 1470
Beaumont, TX 77706

Hon. Audrey G. Fleissig
U.S. Magistrate Judge
Thomas F. Eagleton U.S. Courthouse
Suite 3300
111 South 10th Street
St. Louis, MO 63102-9958

Hon. Jean C. Hamilton
U.S. District Judge
16N Thomas F. Eagleton U.S. Courthouse
111 South Tenth St., 16th Floor
St. Louis, MO 63102-1116

Hon. Carol E. Jackson
Chief Judge, U.S. District Court
14N Thomas F. Eagleton U.S. Courthouse
111 South Tenth St., 14th Floor
St. Louis, MO 63102-1116

Hon. Robert S. Lasnik
Chief Judge, U.S. District Court
15128 U.S. Courthouse
700 Stewart Street
Seattle, WA 98101-1271

Hon. Catherine D. Perry
U.S. District Judge
Thomas F. Eagleton U.S. Courthouse
111 South Tenth Street, 14th Floor
St. Louis, MO 63102-9958

Hon. Michael J. Reagan
U.S. District Judge
200 Melvin Price Fed. Bldg.
& U.S. Courthouse
750 Missouri Avenue
E. St. Louis, IL 62201

Hon. Dana M. Sabraw
U.S. District Judge
U.S. District Court
4290 Edward J. Schwartz U.S. Courthouse
940 Front Street
San Diego, CA 92101

Hon. Charles R. Simpson, III
Chief Judge, U.S. District Court
247 Gene Snyder U.S. Courthouse
601 West Broadway
Louisville, KY 40202

Hon. Rodney W. Sippel
U.S. District Judge
Thomas F. Eagleton U.S. Courthouse
111 South Tenth Street, 10th Floor
St. Louis, MO 63102-1116

Hon. Frederick P. Stamp, Jr.
U.S. District Judge
P.O. Box 791
Federal Building
1125 Chapline Street
Wheeling, WV 26003-0100

Hon. William D. Stiehl
Senior U.S. District Judge
P.O. Box 249
E. St. Louis, IL 62202

Hon. N. Carlton Tilley, Jr.
Chief Judge, U.S. District Court
U.S. District Court
P.O. Box 3443
Greensboro, NC 27402

Hon. E. Richard Webber
U.S. District Judge
Thomas F. Eagleton U.S. Courthouse
111 South Tenth St., 12th Floor
St. Louis, MO 63102-1116

**INVOLVED CLERKS LIST
DOCKET NO. 1657
IN RE VIOXX PRODUCTS LIABILITY LITIGATION**

Bruce Rifkin, Clerk
U.S. Courthouse
700 Stewart Street
Seattle, WA 98101

David J. Maland, Clerk
Jack Brooks Federal Bldg. & U.S. Courthouse
300 Willow Street, Suite 104
Beaumont, TX 77701

James Woodward, Clerk
3300 Thomas F. Eagleton U.S. Courthouse
111 South Tenth Street
St. Louis, MO 63102

Jeffrey A. Apperson, Clerk
106 Gene Snyder U.S. Courthouse
601 West Broadway
Louisville, KY 40202

John Brubaker, Clerk
P.O. Box 2708
Greensboro, NC 27402-2708

Michael N. Milby, Clerk
P.O. Box 5059
McAllen, TX 78502-5059

Norbert G. Jaworski, Clerk
U.S. District Court
P.O. Box 249
E. St. Louis, IL 62202-0249

W. Samuel Hamrick, Jr., Clerk
4290 Edward J. Schwartz Federal Building
880 Front Street
San Diego, CA 92101-8900

Wally A. Edgell, Clerk
P.O. Box 471
Wheeling, WV 26003-0060

**UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

CHAIRMAN:
Judge Wm. Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:
Judge John F. Keenan
United States District Court
Southern District of New York

Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

Judge Kathryn H. Vratil
United States District Court
District of Kansas

Judge David R. Hansen
United States Court of Appeals
Eighth Circuit

DIRECT REPLY TO:

Michael J. Beck
Clerk of the Panel
One Columbus Circle, NE
Thurgood Marshall Federal
Judiciary Building
Room G-255, North Lobby
Washington, D.C. 20002

Telephone: [202] 502-2800
Fax: [202] 502-2888

<http://www.jpml.uscourts.gov>

October 21, 2005

Loretta G. Whyte, Clerk
U.S. District Court
102 Versailles Street
Suite 501
Lafayette, LA 70501

Re: MDL-1657 -- In re Vioxx Products Liability Litigation

(See Attached Schedule A of Order)

Dear Ms. Whyte:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

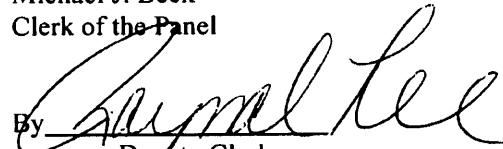
The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

The Panel has ordered that its Rule 1.6(a), pertaining to transfer of files, be suspended for purposes of this litigation. Accordingly, the transferee district clerk shall request, and the transferor district clerk shall forward, only those files deemed necessary by the transferee district court.

A list of involved counsel is attached.

Very truly,

Michael J. Beck
Clerk of the Panel

By 
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Eldon E. Fallon
Transferor Judges: (See Attached List of Judges)
Transferor Clerks: (See Attached List of Clerks)

JPML Form 29A